Supreme Court, U. S.
FILED
JUL 18 1980
MICHAEL RODAK, JR., CLERK

No. 79-1848

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

RETAIL STORE EMPLOYEES UNION, LOCAL NO. 919; ARNALDO F. ESPINOSA, et al.,
Petitioners,

v.

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION; WILLIAM H. WYNN, et al.,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

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BRIEF IN OPPOSITION

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July 18, 1980

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QUESTION PRESENTED

Did the District Court abuse its discretion by granting a preliminary injunction ordering Local 919, a "chartered body" or local union of the United Food and Commercial Workers International Union (UFCW), to submit to the UFCW's audit of all its books and records pursuant to Article 11(M) of the UFCW Constitution, which provides, in pertinent part, that: "The International Union shall have the authority, without notice, to obtain or make a routine audit, inspection, or examination of all books and records of any chartered body"?

PARTIES TO THE PROCEEDING IN DISTRICT COURT

All parties to the proceeding in District Court are: United Food and Commercial Workers International Union, William H. Wynn, Samuel J. Talarico, Harry R. Poole, Thomas G. Whaley, Jay H. Foreman and Douglas H. Dority, Plaintiffs; and Retail Store Employees Union, Local No. 919, Arnaldo F. Espinosa, Bernard Magnant, James Looke, Rene Pisani, Violet Languell, Ester Ravosa, Joseph Gagnon, Alfred Kroopneck and Gordon Soucy, Defendants.

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BRIEF IN OPPOSITION

Respondents, United Food and Commercial Workers International Union, *et al.*, oppose the petition for a writ of *certiorari* for the reasons presented below.

OPINION BELOW

In an unpublished, five sentence decision, 614 F.2d 1291, the Court of Appeals unanimously affirmed the District Court's preliminary injunction directing Petitioner to submit to audit pursuant to Article 11(M) of the International Constitution.

COUNTERSTATEMENT OF THE CASE

The audit of Local 919's books and records which the local union and its officers and executive committee seek to block was requested by Douglas H. Dority, Director of the Northeastern Region of the United Food and Commercial Workers International Union. Dority, whose normal duties include reviewing reports submitted by the trustees of Local 919, observed that Local 919 had unusually high expenditures for printing, promotional items, and liquor. Dority had also been informed that Local 919's president, Arnaldo F. Espinosa, had charged expenses for himself and female companions on his credit cards for which he had been reimbursed by Local 919 (6a; App. II, pp. 140-142).* Thereafter, Dority engaged auditors from Touche Ross & Company to examine Local 919's records in the suspect areas, including the expense account practices of Espinosa (6a-7a; App. II, pp. 11-12).

Touche Ross & Company audited Local 919's books and records for only three days, from July 26 to July 29, 1979, before Local 919 President Espinosa blocked further progress of the audit by hiring police officers to bar any but Local 919 personnel from its offices. He also took to his home the records of Local 919 which the Touche Ross auditors had been examining and photocopying (6a-8a). Even in the limited time available to them, the auditors had found almost immediately that in 13 instances involving $572, Espinosa had double billed the Local by submitting for reimbursement both the customer copy of

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* Citations appearing in this Brief are to the page numbers of the documents for which the following abbreviations are used:

a— Appendix attached to the Petition for Writ of Certiorari

JA— Joint Appendix in the Court of Appeals

App. II— Second Appendix in the Court of Appeals

Pet.— Petition for Writ of Certiorari

an expense and the copy enclosed in the monthly billing statement. The auditors also found that Espinosa had been reimbursed for a significant number of expenses without having submitted anything to show that the expenses were for union business (14a-15a; App. II, p. 51ff.).

The obstruction of the audit and the evidence of financial malpractice developed by the auditors gave rise to numerous potential violations of the UFCW Constitution. The Constitution provides that all local unions are required to abide by and conform with all provisions of the Constitution and laws of the International Union (JA 240, Article 32(C)). Local unions are required to expend union assets solely for union business (JA 242, Article 37(A)). Local union trustees are required to ensure that local union funds are properly accounted for, and expended only on proper authorization (JA 242, Article 36(B)); and local union officers are required to keep the local union's books and records in good order and to have them available at all times for authorized audit, examination or inspection (JA 241, Article 34 (G)(1)). The International Union is authorized to examine all or any of the local union's books and records, and to do so either directly with its own employees or through the employment of necessary personnel. That authority is set forth in Article 11(M) of the Constitution, which provides, in part, as follows:

> The International Union shall have the authority, without notice, to obtain or make a routine audit, inspection, or examination of all books and records of any chartered body. . . .

On July 3, 1979, the five member UFCW Executive Committee authorized a temporary trusteeship over Local 919, pending a hearing within 30 days to determine whether the trusteeship was justified and should continue. In authorizing the temporary trusteeship, the

Executive Committee pointed out that the International Constitution had been violated by the obstruction of the audit, by double reimbursement of single expenses, and by the expenditures that were made without documentation showing their union business purpose (9a-10a; JA 25-26, 219-220). The Executive Committee appointed Dority as Trustee of the Local, and specifically directed him to complete the interrupted audit (10a; JA 220-221).

While the District Court found that the UFCW did not have valid grounds for a trusteeship, it never intimated that the facts developed in the obstructed audit were trivial or did not warrant further investigation. Quite to the contrary. The Court devoted considerable space to discussing whether "the irregularities uncovered during the audit could have been explained by the officers and employees of Local 919" (14a). As regards Espinosa's double billing of Local 919, the Court made the remarkable suggestion that it had occurred because Espinosa had attempted to avoid double billing by submitting both the soft and hard copy of expenses (14a-15a). As regards the failure to maintain documentation of the union business purpose of expenditures, the Court observed that "the better practice" is to retain such documentation but that reimbursement without it was justifiable if the requisite documentation had been lost (15a). Only after it was satisfied that an explanation could exist for these irregularities did the Court conclude that they were insufficient to warrant imposition of a trusteeship.

Since the audit had proceeded for only three days at the time of the Court's Ruling on Cross Motions for Preliminary Injunction, it was obviously possible that the completion of the audit might develop facts which would cast a substantially different light on the apparent irregularities revealed in the audit's preliminary stages.

Those facts might have completely exonerated Espinosa and Local 919, or might have had a contrary result. The Court therefore enjoined imposition of the temporary trusteeship, but directed Local 919 to submit to a thorough audit of its books and records as required by Article 11(M) of the UFCW Constitution (19a-20a, 22a). It specifically held that even though the audit may have been directed at discovering evidence of wrongdoing by Espinosa, Espinosa's interruption of it had been "unwarranted" (18a).

After unsuccessfully seeking a stay of the District Court's order both from the Appellate Court and this Court, Petitioners permitted the audit to continue. The auditor gave the UFCW an interim report on January 30, 1980, and the UFCW provided Petitioners with a copy to enable them to explain or clarify any of the auditor's tentative findings. Much of the report focused on Espinosa's having obtained tens of thousands of dollars from Local 919 in payment to his credit card accounts for items of hotel, travel and restaurant expenses as to which there was no evidence of any union business purpose. In reply to the auditors' interim report, Espinosa filed an affidavit admitting that he could not recall any union business purpose for many of the items noted by the auditor. Petitioners seriously misrepresented the significance of the report in asserting that it "revealed that UFCW had been unable to substantiate any of the grounds for suspicion Dority originally advanced to justify the audit . . ." (Pet. 11, n.9). A principal reason for Dority's initiating the audit was the reports he had received that Espinosa had diverted union assets to pay personal entertainment expenses for himself and female companions. The auditor's determination that there were many items of hotel, restaurant and travel expenses which bore no evidence of any relation to union business certainly substantiates Dority's concern. It should also be noted that the auditor is still

investigating Espinosa's credit card practices, and that the District Court has ordered his credit card companies to produce documentation in their possession relating to the items questioned by the auditor.

REASONS FOR DENYING THE WRIT

I. THE COURT BELOW CORRECTLY CONCLUDED THAT THE UFCW AUDIT OF LOCAL 919 IS NOT AN LMRDA SECTION 3(h) TRUSTEESHIP, AND THAT THE DISTRICT COURT DID NOT ABUSE ITS DISCRETION IN ORDERING LOCAL 919 TO SUBMIT TO AUDIT

The only issue decided by the Appellate Court was that the District Court did not abuse its discretion in granting a preliminary injunction directing Local 919 to submit to audit as provided by Article 11(M) of the UFCW Constitution. This limited, particularized determination does not present an issue meriting review by this Court. Even if it did, however, the issue was correctly decided and thus there is no reason for this Court to grant review.

The fact that the District Court properly exercised its discretion in directing Local 919 to submit to audit was sufficiently apparent to the Appellate Court that it did not give the matter any extended discussion. Numerous factors clearly established the propriety of the District Court's decision. First, the information received by Dority regarding the possibility that Espinosa was diverting union assets to the payment of entertainment expenses charged on his personal credit cards created a substantial, independent and entirely valid basis for an audit. Second, the audit was conducted by a reputable certified public accounting firm which at all times conducted itself in a proper manner. Indeed, Judge Clarie relied on the testimony of one of the auditors in reaching his decision (16a-17a). Third, the audit immediately disclosed that

in numerous instances involving thousands of dollars, Espinosa had caused Local 919 to issue checks to his credit card companies for restaurant, hotel and travel expenses charged on his personal credit cards and had done so without submitting any evidence that the expenses in question were union business expenses. Espinosa's practices in this regard are still being investigated by the auditors. Finally, since the audit has at all times been conducted under the general supervision of the District Court and the District Court has retained jurisdiction to review the outcome of the audit and any action by the UFCW based on the audit, there is no possibility that the results of the audit could be used as a mere pretext to reimpose a trusteeship on Local 919. The District Court expressly held that it would permit a trusteeship to be imposed only upon "credible facts to support such a move" (19a). Thus, there is simply no reason why Local 919 should not submit to full audit. Indeed, one would think that Local 919 would wish such an audit if only to remove any doubts over its finances raised by Espinosa's double billings and the lack of adequate documentation for Local Union expenditures.

It is apparent from the above factors that the District Court did not require Local 919 to submit to a baseless audit with pretextual objectives, but rather to an independent, judicially supervised audit for the critically important objective of determining whether Local 919's assets had been properly applied by its officers. Petitioners' assertion that the District and Appellate Courts rejected application of this Court's illegal motive teachings to the audit is baseless, since neither court sanctioned an illegally motivated audit.

Petitioners' contention is also erroneous because this Court has not created a federal common law of illegal motivation which was susceptible of application to the audit. To the extent that this Court has dealt with cases of

illegal motivation in other contexts, it has never taken the position that the existence of a partially tainted motive renders actions unlawful that would have been taken absent the tainted motive. On the contrary, the Court has held, for example, that even where retaliation against constitutionally protected conduct is a motivating factor in a school district's discharge of a teacher, the discharge may be upheld where such actions would have been taken absent the improper motivation. *Mt. Healthy City Board of Education* v. *Doyle*, 429 U.S. 274, 287 (1977). In *Mt. Healthy*, the Court cited as analogous support a number of criminal cases in which the admissibility of confessions had been upheld once the effect of earlier unlawful actions giving rise to the confessions had been dissipated. *Mt. Healthy*, 429 U.S. at 286-287.

Here, the District Court could have justifiably concluded that the information possessed by Dority was a sufficient, independent basis for audit of Local 919 and that an audit would have been conducted regardless of the existence of hostility between Espinosa and any international union officer. Petitioners contend, without foundation, that the UFCW would not have undertaken an audit "on such slight grounds," (Pet. 7), completely disregarding the gravity of information Dority received. That information suggested the possibility of misappropriation of union assets by local union personnel in violation of 29 U.S.C. § 501(c), a federal felony, or, at a minimum, a breach of fiduciary responsibility by local union officers contrary to 29 U.S.C. § 501(a) as well as significant violations of the UFCW Constitution. These are hardly "slight grounds" for an audit.

Petitioners recognize that their "illegal motive" argument must fail unless they can establish the existence of a federal statute which requires a pristine motive for an audit. The statute they principally rely on to establish the requirement for such a motive is The Labor Management Reporting and Disclosure Act of 1959, as amended

(LMRDA), Sections 3(h), 302 and 304(a) and (c), which define "trusteeship" and establish the conditions under which a trusteeship may be imposed. In essence, Petitioners contend that while a legally motivated audit does not meet the definition of trusteeship in Section 3(h) and thus is not subject to the limitations of Section 302, an illegally motivated audit is a trusteeship and thus is subject to the limitations of Section 302. This contention must fail, not only because it is absurd on its face but because the definition of trusteeship in Section 3(h) will not support the gloss which Petitioners would give it.

An audit, however motivated, is simply not a method of supervision or control which suspends the autonomy otherwise available to a UFCW local union under the UFCW Constitution, and thus does not meet the definition of "trusteeship". Petitioners' argument that an audit is a method of supervision or control relies on what they claim is a literal, dictionary definition of these terms (Pet. 16, n. 10). Their use of the dictionary is not honest, to say the least. For example, they cite Webster's *Third New International Dictionary* (unabridged, 1965) as defining "control" as "verification, scrutiny." It would follow then, that an audit, which involves verification and scrutiny of records, is literally a form of control. However, the words "verification, scrutiny" appear nowhere in Webster's definition of control. They are used to explain the etymology of "control," which is derived from the Middle French word "contrerolle" meaning, *inter alia*, "verification, scrutiny." Petitioners' attempts to use *Black's Law Dictionary* to support their position is equally weak.

Besides the fact that an audit is not a method of supervision or control, the UFCW audit of Local 919 could not meet the LMRDA Section 3(h) definition of trusteeship because it does not suspend the autonomy otherwise available to Local 919. Under the UFCW Constitution, local unions are not entitled to freedom from

audit. On the contrary, they are required to submit to audit pursuant to Article 11(M). Moreover, the audit of Local 919 has not diminished in the least the Local's control over its own internal affairs. The audit has not removed Local 919's officers from their positions or interfered with the conduct of Local Union meetings or administration. Moreover, Local 919's freedom and self direction is thoroughly protected by the July 23 and 31 Orders of Judge Clarie directing the removal of the temporary trusteeship and of all restraints against Local 919's funds, assets, or properties. Pursuant to those Orders, Local 919 is operating just as it did before the trusteeship, with its own officers and staff, under its own bylaws and in complete control of its own funds, assets and property.

Petitioners' invitation to this Court to construe the LMRDA to preclude improperly motivated audits of local unions by their parent internationals has a transparent objective: to create a doctrine which would permit local union officers to use parent union *animus* as a shield against parent union discovery of the officers' wrongdoing. Such a result would be at odds with the fundamental objective of the LMRDA to ensure that officers of a union "hold its money and property solely for the benefit of the organization and its members . . . ." Section 501(a). Petitioners make the bogus claim that permitting hostile audits to discover financial malpractice would be "to make the end justify the means" (Pet. 19). This is obviously not so. An audit itself is an entirely harmless procedure which does no violence to a local union's independence. Improper efforts to use the results of an audit unfairly can be remedied by resort to federal courts. There can thus be no danger in a local union submitting to an audit, but tremendous risk to a local union's assets and members in permitting a local union to block an audit by challenging its motivation. Thus, both as a matter of statutory construction and from the

viewpoint of federal labor policy, there is no basis for granting *certiorari.*

II. THE DECISION BELOW DOES NOT CONFLICT IN PRINCIPLE WITH DECISIONS OF OTHER CIRCUITS AND WITH FUNDAMENTAL TEACHINGS OF THIS COURT

Petitioners' second reason for arguing that *certiorari* should be granted is based, not on Section 3(h) of the LMRDA, but supposedly on a conflict between the Appellate Court's decision and the decisions of other circuits and the fundamental teachings of this Court. We will show there is no such conflict.

Before considering Petitioners' argument, there is one preliminary matter that must be treated. Petitioners would have this Court believe that the spirit of the LMRDA is violated by a "discriminatory, unlawfully motivated audit" even where the union constitution unqualifiedly authorized audits. For this proposition, they rely on sheer *ipse dixit.* The notion that the "spirit" of the LMRDA may be invoked to invalidate union constitution provisions was clearly rejected in *Vestal* v. *Teamsters* (unreported), 81 LRRM 2732 (D.C. Cir., 1972) (attached as Appendix) where the appellate court overturned a lower court decision (unreported), 77 LRRM 2997 (attached as Appendix), setting aside amendment provisions of an international constitution on the basis that they violated the spirit of the LMRDA but not necessarily its language. The appellate court simply concluded that there was no basis in the LMRDA for such an order. While Petitioners rely on several constitutional law and National Labor Relations Board cases for the proposition that certain discriminatory, unlawfully motivated conduct by way of state action or employer activity establishes violations of the U.S. Constitution or the National Labor Relations Act, those cases are totally inapposite here since there is neither a constitutional nor a statutory restriction on the motives underlying an

audit of local unions by their parent internationals. A review of the provisions of Article 11(M) of the International Constitution makes it clear that motive is irrelevant to the conduct of an audit which is specifically authorized by that Article.

In light of the foregoing we will now respond to Petitioners' argument that the decision below conflicts with decisions of other circuits and of this Court. Petitioners' initial thrust is that basically, even if an audit is considered too small an invasion to be considered a suspension of autonomy for the purpose of Section 3(h), discriminatory, illegally motivated audits would still be condemned by the policy of Sections 302, 304(c), 501 and 609 of the LMRDA. Petitioners rely upon *Parks* v. *International Brotherhood of Electrical Workers*, 314 F.2d 886 (2d Cir., 1963), wherein the Second Circuit concluded that the revocation of a charter of a local union was not a trusteeship. There the Supreme Court denied *certiorari* at 372 U.S. 976. Certainly, if *certiorari* was denied in *Parks*, it seems unlikely that *certiorari* should be granted under a theory that even where the audit does not constitute a trusteeship because it is too small an invasion to constitute a suspension of autonomy, it should still be condemned because it was illegally motivated and discriminatory. The *Parks* case even indicates that illegal motivation will not adversely affect the action of the international union where there are other valid and legitimate reasons for the action taken. In that case, the court held that even though the international president may have been motivated in part improperly because of earlier suits challenging the international's authority, that is not significant in view of the array of other valid and legitimate reasons for revocation (314 F.2d at 904-905). Thus, in the instant case, even if it was concluded that the audit was illegally motivated, since there were valid and legitimate reasons for the conduct of an audit, i.e., double billings and a considerable lack of documentation

in the Local Union's records, then certainly the contractual right to audit should not be denied and the lower court was well within its discretion in ordering the Local Union to submit to audit.

Petitioners next argue that cases arising under the National Labor Relations Act such as *Labor Board* v. *Erie Resistor Corp.*, 373 U.S. 221 (1963), and *Machinists Local* v. *Labor Board*, 362 U.S. 411 (1960), hold that normally innocent or ambiguous actions may be converted into unfair labor practices by the showing of subjective intent to discriminate against employees for engaging in protected rights. Those cases, of course, are easily distinguishable from the instant case. Thus, here, there is no evidence of subjective intent to discriminate in the conduct of the audit, but even more significantly, Petitioners have no right created by a law which is being violated. The right to remain free from audit cannot be found in any statute.

Even an attempt by the Petitioners to show that various sections of the LMRDA have been interpreted liberally by various courts must fail since there is nothing even approaching a finding that an audit is prohibited by any section of the LMRDA.

Petitioners further argue that Internal Revenue Service audits cannot be conducted in bad faith and therefore courts must prevent such conduct on the part of union officials, "against whose potential abuses of power Congress found it necessary especially to legislate." (Pet. 20). What Petitioners failed to state is that Congress specifically legislated against potential abuses by union officials and did not feel it necessary to prevent audits. In fact, audits are part of the machinery of Title II of the LMRDA to protect the assets of the membership. 29 U.S.C.A. § 431.

Contrary to the contentions of Petitioners, there is absolutely no support for their implication that there is

some expression by Congress that local unions should be free from audits and that such congressional preference should override judicial orders designed to maximize the potential exposure of corruption or financial malpractice. Congress has not indicated any opposition to audits, but certainly has spoken on the necessity to correct corruption and financial malpractice, especially where, as here, there is evidence of financial irregularities. It must be noted that Petitioners' attempt to label the audit by the International Union here as a violation of Section 609, 29 U.S.C. § 529, as a reprisal against protected resistance to interference with Local Union autonomy must fail. Clearly, Section 609 "is not a source of additional independent rights, but is an enforcement provision, designed, . . . to effectuate rights conferred in other sections of the Act . . . ." *Grand Lodge of International Association of Machinists* v. *King*, 335 F.2d 340 (9th Cir., 1964), *cert. denied*, 379 U.S. 920. Since there is no right conferred in another section of the Act, Section 609 is not applicable here.

Finally, Petitioners attempt to compare apples with oranges in comparing National Labor Relations Board cases to this case. Petitioners assert that "just as discriminatory or illegally motivated 'surveillance [or interrogation] becomes illegal because it indicates an employer's opposition to unionization' . . . so does discriminatory or illegally motivated audit become illegal because it indicates the parent body's opposition to local autonomy" (Pet. 21). That analogy, of course, is obviously faulty in that unionization or the right to organize is guaranteed as a right to employees under Section 7 of the National Labor Relations Act. On the other hand, the right to be free from audit, as shown above, is not guaranteed by any provision of law.

It is respectfully submitted that *certiorari* should not be granted on the basis of this argument.

III. THE DISTRICT COURT AND THE COURT OF APPEALS PROPERLY DETERMINED THAT THE CONDUCT OF AN AUDIT DOES NOT CONSTITUTE A SUSPENSION OF AUTONOMY REGULATED BY THE LMRDA

Petitioners' third basis for stating that *certiorari* should be granted is that it should be granted to implement the balance Congress struck between protection of local autonomy by law and avoidance of undue interference in internal union affairs. Petitioners state that it is important for the Supreme Court to consider the balance of these issues at the present time because the decision below "chills the freedom of officers of all autonomous subordinate bodies in the labor movement to exercise independence in their conduct of purely local business" (Pet. 22). They state further that unless such abusive audits are condemned by the Court, local officers will be cowed into submission by the possibility of an audit. Of course, as pointed out above, there is no indication that the audit herein is in any way abusive. In fact, the LMRDA contemplates certain restrictions on the autonomy of local unions as is clear from Section 3(h). All the LMRDA prohibits in Sections 302 and 304 is the suspension of autonomy "otherwise available" to a subordinate body except if instituted for the reasons spelled out in Section 302 and in accordance with the constitution and bylaws of the parent union. Thus, as long as the audit does not suspend autonomy otherwise available to the local union in the constitution of the organization, the LMRDA does not even come into play. Of course, in the instant case, the International Constitution provides for the audit which is being conducted and thus, freedom from audit is not something to which a local union is entitled under the International Constitution. Clearly then, there is no need for this Court in the instant case to consider the balance that Congress struck between protection of local autonomy and preservation of labor

organizations' power to control their internal affairs. There is no loss of local autonomy here and, in any event, the system is working just as contemplated in the Labor Management Reporting and Disclosure Act.

This reason put forward for granting *certiorari* should also be rejected as raising a question that is not before this Court. Petitioners' imply that the question before the Court is whether an audit provision of an international constitution can lawfully be construed as authorizing "discriminatory, illegally motivated audits." As pointed out above in detail, there is no evidence of there being a discriminatory, illegally motivated audit in this case and thus, that cannot be the question before this Court.

IV. THERE WAS NO DISREGARD OF THIS COURT'S TEACHINGS BY THE DISTRICT COURT OR COURT OF APPEALS AND THEREFORE THERE IS NO NEED FOR THE EXERCISE OF THE SUPERVISORY POWER OF THIS COURT

Petitioners' fourth reason for the granting of *certiorari* is that "*Sub silentio* rejection of fundamental teachings of this Court by the courts below calls for exercise of this Court's power of supervision" (Pet. 23). Significantly, in that entire section of Petitioners' brief, there is not one Supreme Court case cited. Thus, it is difficult for us to determine what fundamental teachings of this Court Petitioners are concerned about.

Petitioners state that the underlying legal question here is whether authorization under a union constitution immunizes conduct which the LMRDA in terms and policy condemns. As shown above, the conduct here, i.e., the auditing of Local 919, is not condemned by the terms and policy of the LMRDA. Thus, Petitioner's citation of Second Circuit decisions such as *Turner* v. *Air Transport Lodge 1894, Etc.*, 590 F.2d 409, 411 (2d Cir., 1978), *cert. denied*, 442 U.S. 919, for the proposition that a

union constitutional provision cannot legalize what the plain words of the LMRDA forbid has no applicability here. Likewise inapplicable is the proposition stated in *Local Union 13410, United Mine Workers* v. *United Mine Workers*, 475 F.2d 906, 914 (D.C. Cir., 1973), that "this Court will not frustrate the clear intent of Congress by making the remedies available to the local less effective than they were before Congress acted." Petitioners have cited nothing to show that local unions were not subject to the provisions of international constitutions providing for audits prior to the passage of the LMRDA. Certainly, the LMRDA did not change the relationship between an international union and its locals with respect to the subject of auditing.

Thus, it is respectfully submitted that the District Court did not err in directing the Local Union to submit to the audit.

CONCLUSION

It is respectfully submitted that Petitioners have not stated sufficient or persuasive grounds for the granting of their petition in this matter and, thus, *certiorari* should be denied.

Respectfully submitted,

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